MOTION FILED
JUN 9 1998

(15)

No. 97-930

In The

Supreme Court of the United States

October Term, 1997

VICTORIA BUCKLEY, Colorado Secretary of State,

Petitioner,

vs.

AMERICAN CONSTITUTIONAL LAW FOUNDATION, INC., DAVID AITKEN, JON BARAGA, CRAIG ELEY, JACK HAWKINS, LONNIE HAYNES, ALDEN KAUTZ, and BILL ORR, Individually and as parent and guardian of WILLIAM DAVID ORR,

Respondents.

On Writ Of Certiorari
To The United States Court Of Appeals
For The Tenth Circuit

MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF AND SUPPLEMENTAL BRIEF OF PRO-SE RESPONDENT BILL ORR

BILL ORR, *Pro-Se*
2075 S. University, #240
Denver, CO 80210
303-595-5738

MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF

Pro-Se Respondent Bill Orr has throughout the proceedings below submitted his own Briefs and made separate argument. Pro-Se Respondent was timely provided the Briefs of Petitioner and Amici Washington, Alaska, et al., which were taken into account in his June 19, 1998 Brief.

Pro-Se Respondent was also timely provided the Amici Briefs of the ACLU, National Voter Outreach, and Initiative and Referendum Institute.

However, Respondent **was not** mailed and did not timely receive a copy of the Amici Brief of "The Council of State Governments, et al.," ("Council Amici Brief"). The Brief was not given to him until June 19, 1998 (see attached Affidavit of Mr. Neil O'Toole). Thus, the arguments of Council Amici Brief, were not timely provided (see Rule 29(3), 37(6)), and could not be properly addressed in Pro-Se's original June 19, 1998 Brief.

Council Amici Brief raises argument, which has not been adequately addressed in the Briefs of Respondents now before this Court. Had Respondent Bill Orr properly received the Council Amici Brief, he would have included an appropriate reply in his original Brief.

Respondent Bill Orr respectfully requests this Honorable Court for Leave to File a Supplemental Brief to deal with the salient points raised by Council Amici Brief, which could not be addressed. Petitioner Secretary of State, who has been provided an advance copy (July 1, 1998), and Respondents have consented to the filing of Pro-Se's Supplemental Brief.

Bill Orr 7/8/98

AFFIDAVIT OF NEIL O'TOOLE, ESQ.*

I, Neil D. O'Toole, being duly sworn state:

1. I am counsel of record in the above captioned matter and have filed a Respondent's Reply Brief for the American Constitutional Law Foundation, Inc., Craig Eley, Jack Hawkins, Lonnie Haynes, and Alden Kautz.

2. Mr. Bill Orr, Pro-Se Respondent, has filed his own briefs and/or argument, appendices. He has been permitted to present, and has presented, argument before the Courts below.

3. His briefs complement the briefs and argument I have filed for the Respondents.

4. The Amici Brief of the Council of State Governments, et al., ("Council Amici Brief") was mailed and received by me timely.

5. Until June 18, 1998, I was unaware that Mr. Orr had not been mailed the Council Amici Brief and had assumed he had received it.

6. On the afternoon of June 18, 1998, Mr. Orr asked if I had any other *amici* briefs other than that submitted by the States of Washington, et al., in support of the Petitioner. At that point I informed him I had Council Amici Brief, which he requested I get delivered to him as soon as possible. I hand delivered a copy to him on June 19, 1998.

7. Apparently, attorney Paul Grant, Counsel for David Aitken, Jon Baraga, and William David Orr, also did not receive a copy of the Council Amici Brief, until after the filing of his Reply Brief.

---

*Counsel of Record

8. I support, and do not object to, Mr. Orr's request for Leave to File a Supplemental Brief.

By: /s/ Neil D. O'Toole
NEIL D. O'TOOLE
LAW OFFICE OF NEIL O'TOOLE P.C.
226 West 12th Avenue
Denver, CO 80204
(303) 595-4777

Counsel of Record
Attorney for the
Respondents/Petitioners

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

Subscribed and sworn to or affirmed before me in the City and County of Denver and State of Colorado, by Neil D. O'Toole, this 2nd day of July, 1998.

Witness my hand and seal.
My Commission Expires

VIRIGINIA A. KNOTT
NOTARY
PUBLIC
STATE OF COLORADO

/s/ Virginia A. Knott

My Commission Expires
4/15/2001

TABLE OF CONTENTS

Page

Motion for Leave to File Supplemental Brief 1

Affidavit of Neil O'Toole, Esq. 2

SUMMARY ARGUMENT 1

ARGUMENT 2

I. Colorado's *New* System of Signature Verification Conducted by the Secretary of State and the Warnings Contained on the Face of the Petition, Make Circulators *Redundant*, and Serve *No* Real Purpose in Furthering the State's Asserted Interest in Maintaining the Integrity of Initiative and Referendum Process 2

II. Colorado's *Mandated* Use of Circulators is an Unconstitutional Restraint on the *Proponent's* Right to Freely Petition the Government 6

III. Real Purpose of Circulator Affidavit and Resulting Circulator Restraints is to Authorize State Control over the Petition Process, to Provide the State the Basis for Wholesale Disallowance of Valid Signatures, Permitting the State to Determine What Petitions will be Heard 7

Exhibit A – "TAX CAP Committee" Florida Constitutional Amendment Petition Form

Exhibit B – Florida Petition Verification Rules

TABLE OF AUTHORITIES

Page

CASES

ACLF v. Meyer, Civil Action #92-N-69, Preliminary Injunction Hearing, Federal District, Judge Nottingham (1992) 6

American Constitutional Law Foundation, Inc. v. Felicia Muftic, Civil Action No. 91-Z-290, Federal District Colorado, Judge Zita Weinshienk, Preliminary Injunction Hearing (1991) 10

Brownlow v. Wunch, 103 Colo. 120, 83 P. 2d 775 (1938) 1

Committee for Better Health Care v. Meyer, 830 P. 2d 884 (1992) 5, 10

Elrod v. Burns, 427 U.S. 347, 96 S.Ct. 2673 (1973) ....

Fabec v. Beck, 922 P. 2d 330 (1996) 9

McClellan v. Meyer, 900 P. 2d 24 (1995) 9

People ex rel. Elder v. Sours, 31 Colo. 369, 74 P. 167 (1903) 3

TABLE OF CONSTITUTIONAL, STATUTORY AND RULE CITATIONS

Colorado Constitution, Article V, Section 1 6

Colorado Constitution, Article V, Section 1(6) 1, 6

C.R.S. § 1-40-104 6

C.R.S. § 1-40-105 6

C.R.S. § 1-40-110(1) 4

C.R.S. § 1-40-111 5

C.R.S. § 1-40-111(2) 6, 7, 8

TABLE OF AUTHORITIES – Continued

Page

C.R.S. § 1-40-116(1) 7

C.R.S. § 1-40-116(2) 5

C.R.S. § 1-40-116(3) 5

C.R.S. § 1-40-116(4) 4, 5

C.R.S. § 1-40-117(2)(b) 5

C.R.S. § 1-40-118(2) 5

C.R.S. § 1-40-119 5

C.R.S. § 1-40-130(1) 7

C.R.S. § 1-40-130(1)(c) 9

OTHER CITATIONS

"Declaration and Resolves" of 1774. See *Sources of Our Liberties*, Perry and Cooper, 2nd Impression (1952), pg. 287-288 ..... 8, 9

Democracy By Initiative, Report and Recommendation of the California Commission on Campaign Financing, Center for Responsive Government, Los Angeles, CA. (1992), 171 ..... 6, 7

Petition Verification, hhtp://election.dos.state.fl.us/initiatives/peit.htm 7

SUPPLEMENTAL BRIEF OF PRO SE RESPONDENT BILL ORR

SUMMARY ARGUMENT

Amici "The Council of State Governments, et al.," ("Council Amici Brief") and Colorado argue in their briefs that petition circulators perform important administrative functions which "more than obviates any advocacy interest circulators may have" (Pet. Brief at p. 40), permitting Colorado to justify its regulations on the peaceful petition for redress of grievance process, including those struck down by the 10th Circuit.

While Respondents have already provided good reason why this "circulators as state agents" rationale is unconstitutional, there is one very important issue that has yet to be addressed. That is, **what is the state's interest in mandating the use of petition circulators to collect signatures in the first place?**

Many states adequately maintain the integrity of their initiative and referendum petition process, absent any requirement that a circulator be used, or that a petition signature be witnessed. Certain potentially low cost and effective signature collection techniques (i.e. direct mail, newspaper advertisements, etc.) are incompatible with Colorado's requirement that a circulator witness the signing of a petition and provide a notarized affidavit to that effect.

Direct mail provides a greater opportunity for a potential signer to deliberate the grievance and the proposed redress of a petition. Direct mail signatures normally produce a higher validity rate compared to signatures collected by a circulator.

Colorado formerly relied upon the circulator's affidavit as "prima facie" evidence to the petition signature's validity, during the period prior to 1989 when the state did not verify signatures, and when private protestants were the basis upon which the validity of a signature was challenged. Under this procedure, once witnessed, the signature was presumed valid and the burden was placed upon private opponents to prove invalidity. *Colorado Constitution*, Article V, Section 1(6), *Brownlow v. Wunch*, 103 Colo. 120, 83 P. 2d 775 (1938).

However, after signature verification technology became commonly available in the 1980's, where the signature and registration information of a petition signer (e.g. registered elector) could be easily compared and confirmed to source records, the Colorado Legislature in 1989 abandoned the earlier private protest scheme, and ordered the Secretary of State to verify each petition signature for its validity.

Today, only *after* the Secretary verifies the signatures as being valid, can a petition be certified. If the Secretary determines the petition has insufficient signatures, the proponents have the burden to prove otherwise, not withstanding the affidavit. Thus, under the current verification system, the *mandated* circulator and his affidavit *serve no real purpose* in "maintaining the integrity of the initiative and referendum process." Regulations imposed upon the circulator only burden the exercise, and simultaneously provide Colorado the means to effectively determine which petitions will be heard.

Colorado cannot justify its requirement that circulators *must* be used to collect signatures, let alone the restrictive regulations placed upon circulators they ask this Court to find "reasonable." Colorado's justification is particularly difficult when other states do not have a circulator requirement.

ARGUMENT

I. Colorado's *New* System of Signature Verification Conducted by the Secretary of State[1] and the Warnings Contained on the Face of the Petition, Make Circulators *Redundant*, and Serve *No* Real Purpose in Furthering the State's Asserted Interest in Maintaining the Integrity of Initiative and Referendum Process.

Amici "The Council of State Governments, et al.," ("Council Amici Brief") and Petitioner repeatedly assert the circulator is a vital state agent in "maintaining the integrity of the Initiative and Referendum Process" (see Petitioner's Brief

[1] Colorado's signature verification procedures changed dramatically after *Meyer v. Grant*, along with need to prevent circulator fraud.

pp. 24-25). However, the State's asserted interest of "maintaining the integrity of the Initiative and Referendum Process" is never defined.

The state suggests the *collection* of improper signatures violates this integrity. This is error. As the state's interest, if any, can *only* extend so far as to avoid improper or invalid signatures from being *counted* in the petition's certification.[2] It is only the signatures of petitions submitted for certification that the state can assert an interest in. Signatures on petitions not submitted are outside any state interest.

The state plainly does not have an interest in the private collection of petition signatures by private individuals, who are not employed, paid, or otherwise benefited by the state. Signature collection is interactive core political expression.[3]

Furthermore, under what theory could the state possibly assert any interest in private signature collection of a petition capable of achieving political change, *absent* an election?[4]

[2] Even so, the Colorado courts have held there is no real harm if a petition is ballot certified with an insufficient number of signatures, *People ex rel. Elder v. Sours*, 31 Colo. 369, 376-377, 74 P. 167, 169 (1903).

[3] This is part of the *first* element/step of the initiative and referendum process – The Private Element – which includes: i) choosing the subject matter and scope of the grievance to be redressed, ii) drafting proposed redress language, etc., and iii) collecting signatures in support of redressing the petition's grievance. The second independent element/step – The Public Element – occurs upon ballot certification.

[4] As noted in Pro-Se's Brief and in the National Voter Outreach Amici Brief, the initiative and referendum petition often precipitates political change *absent* an election. While there are numerous examples, a 1972 initiative petition known as "In Stream Water Appropriation of Colorado," comes to mind. The petition dealt with reversing the loss of Colorado's precious water, but its proponents did not submit it for ballot qualification. But the petition generated such a public uproar the Colorado Assembly the very next session passed S.B.73-97 "Concerning In Stream Flow Appropriations," sponsored by State Senator Fred Anderson.

Another example includes, the "Highway User Taxes for Highways," a 1990 initiative petition effort to preserve highway revenues for the

Thus, state interest, if any, can *only extend* to submitted initiative and referendum petition *signatures*, which are to be *counted* in the *ballot qualification* process.

However, the new signature verification rules prevent any possibility of a submitted signature, which is improper or invalid, from being counted. Under the new rules, the Secretary is vested with the plenary authority and duty (aided with readily available electronic input and signature verification technology) to disallow every improper or invalid signature, including *fraudulent* signatures (C.R.S. § 1-40-116(4)), during ballot certification.

In effect, Petitioner and her Amici friends overlook the Secretary's verification duties, which now completely void any role the circulator may serve in this function.

The State's "so-called" interest of "maintaining the integrity of the Initiative and Referendum Petition Process" is a misnomer, a holdover concept from the rules of yesterday, before the era the commonly available signature verification technology. It is a self-serving ruse to justify unnecessary restrictions upon the petition for redress of grievances process.

The new rules regarding signature verification are substantially different than the old rules. Under Colorado's pre-1989 rules challenges to the sufficiency of petitions were conducted exclusively by private party opponents.

Post 1980 Petitions contained bold warning language stating only "Registered Voters" can legally sign the petition, and the signer has read and understood the petition signed (C.R.S. § 1-40-110(1)). Each petition sheet contains this warning with a state approved summary of the redress proposed by the petition, *Id*.

---

highway users fund. After obtaining approved ballot title and summary language, the petition's proponent's elected not to circulate the petition, but used the threat of its ultimate circulation as a means to secure passage of Senate Bill 95 47 "Concerning Additional Revenue for Financing of Highways and Making Appropriations thereof," sponsored by State Senator Ray Powers. Thus, *absent circulators*, the initiative petition achieved peaceful change.

In 1989, the Secretary of State was charged with the authority to verify *each* petition signature (HB 89-1181), using the computer and other electronic means available to her office.[5]

The Secretary's duty to verify the signer's *signature* is unmistakably clear (see C.R.S. § 1-40-116(2), (3), (4), § 1-40-117(2)(b), § 1-40-118(2)).[6] Improper, invalid, and even fraudulent signatures are to be detected and not counted, *Id*.

Under the new rules, the Secretary exercises complete and final signature verification authority[7] *Committee for Better Health Care v. Meyer*, 830 P. 2d 884, 895 (1992).[8] The Secretary must disallow every submitted signature she can not verify, disregarding the circulator affidavit entirely. Now only signatures she verifies are subject to presumption of prima facie validity, Id., 895.

Thus, given the warnings on the petition, itself, requiring the signer be a registered voter and to understand the petition

---

[5] Such technology includes optical scanning devices for electronically inputing signatures ("Each registered elector signing a petition shall be encouraged to sign the petition in black ink," C.R.S. § 1-40-111), coupled with computer and/or visual comparison of each petition signature (and other information) with source voter registration and/or motor vehicle records. Such technology is similar to NCR signature verification processes commonly used at banks to clear checks. Improper or padded signatures are easily detected and disallowed (see PSA p. 29).

[6] The Secretary starts her verification of signatures using a random sampling method. C.R.S. § 1-40-116(4).

[7] However, the statue permits a second challenge by private protestors of the signatures the Secretary verifies as being valid, C.R.S. 1-40-119.

[8] The trial record also shows numerous examples, where petition signatures were disallowed, even though the circulator affidavit attested to their validity (See Trial Exhibit 12, "Initiatives Received By the Secretary of State 1992," also found in Respondent Neil O'Toole's Brief, p. 28; also see PSA p. 16).

being signed, coupled with Colorado's new signature verification process, the need for a circulator and his affidavit is *plainly unnecessary*.

> I find no compelling state interest . . . [Any] state interest can equally well be served by means other than requiring the circulators be registered voters and the – the strongest way that it can be served is through the requirement that the signers be registered voters and the Secretary of State's procedure for enforcing that, which is that she checks all of the names on the petition against voter lists.

See *ACLF v. Meyer*, Civil Action #92-N-69, Preliminary Injunction Hearing, Federal District, Judge Nottingham (1992), see PSA, p. 6.

II. Colorado's *Mandated* Use of Circulators is an Unconstitutional Restraint on the *Proponent's* Right to Freely Petition the Government

Under law, *Proponents* of Initiative and Referendum Petitions *need not* be registered voters, nor be over the age of 18, nor be state residents, nor wear a badge, *Colorado Constitution*, Article V, Section 1, C.R.S. § 1-40-104, C.R.S. § 1-40-105.

However, state law grossly burdens proponents by *mandating* they use circulators in the collection of signatures for their petition. Circulators are mandated under law, in effect due to the requirement that submitted petition sections contain a circulator affidavit, *Colorado Constitution*, Article V, Section 1(6), C.R.S. § 1-40-111(2). Thus, state law *prohibits proponents* from easier, potentially less expense and/or more efficient means of collecting signatures absent a circulator, via for example, direct mail or newspaper advertisement.

> [R]eal purpose of requiring petition notarization is in fact to eliminate the direct mail method of signature gathering. It is therefore ipso facto a prohibition on direct mail . . .

Democracy By Initiative, Report and Recommendation of the California Commission on Campaign Financing, Center for Responsive Government, Los Angeles, CA. (1992)), 171.

The requirement mandating circulators is wholly unnecessary and at odds with proponents' right to peacefully petition their government for redress of grievances. It is contrary to the practice of other jurisdictions, including California[9] (see *Democracy by Initiative*, Id. 140), Florida, and elsewhere,[10] where ballot qualification via direct mail is permitted.

Respondent notes, the record shows Florida has the same signature verification requirements as Colorado, but does not mandate circulators. A recent example of a tax petition and a copy of Florida's current rules related to "Petition Verification," hhtp://election.dos.state.fl.us/initiatives/peit.htm are set forth at Exhibit A and B. Thus, any person of any age, without regard to their residency or citizenship, may circulate a petition for redress of grievances in Florida (See PSA, pp. 26-29).

Because Colorado's asserted state interest is no different than Florida's, and can be protected the same way, its circulator requirement and circulator restrictions are plainly unnecessary.

III. Real Purpose of Circulator Affidavit and Resulting Circulator Restraints is to Authorize State Control over the Petition Process, to Provide the State a Basis for Wholesale Disallowance of Valid Signatures Permitting the State to Determine What Petitions will be Heard.

Colorado's requirement that circulators of private "petitions to redress grievances" execute an affidavit (C.R.S. § 1-40-111(2)) under penalties of perjury (C.R.S. § 1-40-116(1)) and to otherwise expose themselves to criminal prosecution (C.R.S. § 1-40-130(1)), chills core political

---

[9] Direct mail was used to qualify Howard Jarvis' 1980 California income tax initiative, *Democracy by Initiative*, Id. 140.

[10] It is reported Alaska, Arkansas, California, Florida, Maine, Massachusetts, Montana, and Oklahoma do not have circulator requirements, which prevent direct mail, *Democracy by Initiative*, Id., 139.

expression/action and constitutes an improper governmental intrusion into purely private First Amendment activity.

The government mandated affidavit requires the circulator attest under criminal penalty:

> He or she has read and understands the laws governing the circulation of petitions; that he or she was a registered elector at the time the section of the petition was circulated and signed by the listed electors; that he or she circulated the section of the petition; that each signature thereon was affixed in the circulator's presence; that each signature thereon is the signature of the person whose name it purports to be; that to the best of the circulators knowledge and belief each of the persons signing the petition section was, at the time of the signing, a registered elector . . .

C.R.S. § 1-40-111(2)

The circulator's free petition and speech rights are plainly chilled because he exposes himself to criminal sanctions if he knows or otherwise might have reason to believe a potential signer *might* not be a registered voter (like instant Pro-Se Respondent) and accepts his signature. He additionally exposes himself to criminal sanctions if his petition is signed outside his presence. For example, if the circulator leaves his petition at the front reception desk at his office for fellow employees to sign at their breaks (but he is not present), he exposes himself to criminal prosecution. He exposes himself to criminal sanctions, if his petition is signed while he is away from it by a well intended or perhaps a hostile person intent upon causing mischief.

This criminal threat, itself, violates the most precious of and ancient principles governing the right to petition. For example, following the injuries to our forefather's colonial petitions (which *was* the cause of the Revolutionary War), the First Continental Congress in their *"Declaration and Resolves"*, of October 14, 1774 (in language coming from the 1689 English Bill of Rights), resolved that:

> [T]hey have a right peaceably to assemble, consider of their grievances, and petition the King; and that

> all prosecutions, *prohibitory proclamations*, and *commitments* for the same are illegal.

"Declaration and Resolves" of 1774. See *Sources of Our Liberties*, Perry and Cooper, 2nd Impression (1952), pg. 287-288 (emphasis).

This, Colorado's threat allows the state to hijack the free and private exercise of this "peaceful" process.

Under the criminal sanctions, non-registered electors and others, who share the same grievance, are prohibited from petitioning their government as circulators and signers for redress of grievances.[11] They are prohibited from signing, *first* by the circulator, who exposes himself to criminal sanctions. *Secondly*, they are prohibited by separate criminal sanctions, which apply against them personally if they sign, C.R.S. § 1-40-130(1)(c). This disenfranchisement is alarming when the petition he is barred from circulating or signing may *not* be calculated to achieve ballot status, but nonetheless effectively causes political change, *absent an election*.

Further, Council Amici and Colorado overlook that defects asserted by the Secretary against the circulator's affidavit, or the information contained in his attestation, or his registration status, or the circulator's failure to wear a badge, etc., are items *vigorously* used by Secretary as justification for the wholesale disallowance of signatures the circulator collects.

The record unmistakably shows petitions have been *denied ballot status solely on the basis of the most trivial of defects* asserted against the circulator, despite his collected signatures being otherwise valid. *Fabec v. Beck*, 922 P. 2d 330 (1996), *McClellan v. Meyer*, 900 P. 2d 24 (1995) (where the circulator's signature or other information do not *perfectly match* the registration records. For example, "Jr" is contained in the voter registration records but omitted by the circulator

---

[11] It is not disputed that *if* a petition is submitted for verification, the state counts registered signers only in the pool of signatures necessary for ballot qualification. Unregistered and other signatures are disallowed in the verification process.

when signing). *American Constitutional Law Foundation, Inc. v. Felicia Muftic*, Civil Action No. 91-Z-290, Federal District Colorado, Judge Zita Weinshienk, Preliminary Injunction Hearing (1991) (where over 3000 signatures were disqualified because a notary of circulator affidavits was a proponent of the petition), *Committee for Better Health Care for All Colorado Citizens v. Meyer*, Id. (where huge numbers of signatures were disqualified due to a minor discrepancy in notary indicia). Also see PSA pp. 12-14, 20, 21.

Thus, due to the state's sanctions, it is able to control the content and manner of the private petition. It involuntarily converts circulators into government speakers. It allows the state to determine who, where, how, and what petitions for redress of grievances are advanced, and if they get advanced at all. In short, the state can determine which petitions will gain ballot status and which ones won't.[12]

Dated this 8th day of July, 1998.

Respectfully submitted,

Bill Orr, *Pro-Se*
2075 S. University, #240
Denver, CO 80210
303-595-5738

---

[12] In 1992, the establishment's "Education Reform/Sales Tax," a tax increase to help fund public schools, lead by the governor, had the highest signature validity rate of slightly less than 79%, and qualified. Likewise, "No Protected Status" (Amendment # 2), lead by a former U.S. Senator, who was a known friend of Secretary Meyer and who also served as the chairman of her re-election committee, had the second highest validity rate of slightly less than 78%. It qualified. On the other hand, the "Cannabis Hemp" initiative to legalize hemp had the lowest signature validity rate of 51%. Nearly one out of every two signatures was ruled invalid. It failed to qualify.

EXHIBIT A

FLORIDA CONSTITUTIONAL AMENDMENT
PETITION FORM PRESS HARD AND PRINT LEGIBLY

0201706

NAME_____ PHONE_____
ADDRESS_____CITY_____COUNTY_____ZIP___

COMPLETE IF KNOWN
CONGRESSIONAL DISTRICT _____PRECINCT NUMBER _____

Mail Petitions and Badly Needed Donations To: Tax Cap Committee, P.O. Box 193, New Smyrna Beach, FL 32170-0193

PROPOSED FLORIDA CONSTITUTIONAL AMENDMENT

Add this subsection to Article VII, Section 1, to be effective on the day following voter approval, notwithstanding the substantial effect on Article VII Sections 1(a), 1(b), 2, 5, 7 and 9.

( ) VOTER APPROVAL REQUIRED FOR NEW TAXES. No new taxes may be imposed except upon approval in a vote of the electors of the state, local, or other taxing entity seeking to impose the tax.

1. DEFINITION OF NEW TAX. The term new tax, for this subsection, includes the initiation of a new tax, the increase in the tax rate of any tax, or the removal of any exemption to any tax.
2. EMERGENCY TAXES. This subsection shall not apply to taxes enacted, for an effective period not to exceed 12 months, by a three-fourths vote of the governing body of a state, local, or other taxing entity after the governing body has made a finding of fact that failure to levy the tax will pose an imminent and particularly described threat to the health or safety of the public.

EXHIBIT A (continued)

BALLOT TITLE:
VOTER APPROVAL REQUIRED FOR NEW TAXES

Summary: Requires voter approval of new state, local or other taxes. New taxes include initiation of new taxes, increases in tax rates and eliminating tax exemptions.

Allows emergency tax increases, lasting up to 12 months, if approved by three-fourths of a taxing entity's governing body.

Substantially affects Article VII Sections 1(a), 1(b), 2, 5, 7 and 9.

Effective on the day following voter approval.

PLEASE SIGN AND DATE
YOUR SIGNATURE HELPS PUT THE PROPOSED AMENDMENT TO A VOTE

I am a Florida registered voter, I petition the Secretary of State to place this ballot title, summary and proposed constitution amendment, on a general election ballot.

X_____

Signature (Same as registered to vote) Date

EXHIBIT B

Petition Verification

Petition
Verification

Petition
Verification

III. PETITION VERIFICATION

Initiative petitions must contain all of the following when submitted to the appropriate supervisor of elections, or they will be deemed invalid and the supervisor shall not verify the signature;

the signee's name,
the signee's street address (including city and county),
the signee's voter registration number or date of birth,
the signee's signature,
the date the elector signed the petition.

6/29/98
http://election.dos.state.fl.us/nitiatives/petit.htm